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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,773	09/19/2001	James E. Carey	1958.1005-001	1454
7590	10/27/2003			EXAMINER BATAILLE, PIERRE MICHE
Rodney D. Johnson HAMILTON, BROOK, SMITH & REYNOLDS, P.C. Two Militia Drive Lexington, MA 02421-4799			ART UNIT 2186	PAPER NUMBER
DATE MAILED: 10/27/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/955,773	CAREY, JAMES E.
	Examiner Pierre-Michel Bataille	Art Unit 2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 September 2001.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-82 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted was placed in the application (papers No 2). The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Specification***

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. The following objections are noted:

- Applicant is reminded that the specification should be updated to reflect the status of any related (copending or patented) application noted in the specification.
- Claim 37 recites improper dependency. The claim recites dependency upon claim 62. It appears that the dependency should be changed to 36 for consistency.
- Claim 38 recites improper dependency. The claim recites dependency upon claim 63. It appears that the dependency should be changed to 37 for consistency (see claims (e.g.) 10-11, 26-27).

3. The above objections are only exemplary. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-64 of U.S. Patent No. 6,324,623. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim of the patented application is an obvious variation of the present application.

- While the independent claims (e.g. claim 1) of the present application and the independent claims of the patent commonly features system or method of simultaneously analyzing data stored in a common system memory by multiple data accessors in a computer, comprising: public blocks storing data therein for global read-only access by a plurality of user accessors; private block storing data therein for private read and write access by a single user accessor without regard to the existence of the data by any other memory block; upon read access to a data item by a user accessor, reading the data item if present from a private block accessible by the user accessor, and if the data item is not present on a private block accessible by the user accessor, reading the data item from a public block; and upon write access to the data item by the user accessor, writing the data item to a private block without communicating any modification to another user accessor.
- The independent claims of the patent is an obvious variation of the claims of the present application as the claims further requires: selecting each memory block from a list of free memory blocks; and maintaining the list of free memory blocks by triggering a flusher to free unused allocated memory blocks in response to a triggering event.
- Dependent claims 10, 20, 37, 49, 61, and 73, reciting the additional features noted above, duplicate the claims the published patent, as they require the features of their independent and intervening claims in addition to the additional features.

The claimed feature or addition/substitution of certain elements and the functions from the claims of the present application would have been obvious if the functions or the elements were not desired (See MPEP 2144.04 (II) A).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 12-25, 27-36, and 39-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,924,093 (Potter) and over US 5,812,852 (Poulsen et al).

With respect to claims 1, 14, 28, and 39, Potter teaches system and method comprising of one or more processing nodes [12, Fig. 1] interconnected by a network, each of the nodes executing one or more threads, each node being able to build and maintain its local buffer independently [Col. 4, Lines 44-46]; a global data structure is generated on a coordinator node [Col. 1, Lines 22-27], wherein the global data structure stores ordered entries associated with the records stored in each of the local data structures generated by each of the nodes, each entry maintains access to the corresponding node [abstract; Col. 1, Lines 39-50; Col. 3, Lines 36-37, Line 62 to Col. 4, Line 6]. Potter does not specifically teach communicating the data from one node to another node if the data is to be shared. However, Poulsen teaches thread-privatizing user-specified global storage objects in parallel computer programs [abstract; Col. 4,

Lines 53-61], where parallel regions execute different threads on different physical processors in a parallel, with one thread per processor, and privatized global storage objects provided a separate and private copy of each object for each thread, each copy being transferred from global storage to private storage (and explicit copy-out to the global storage takes place on-demand only) [Col. 6, Line 36 to Col. 7, Line 21], and the global storage objects being stored in a computer storage medium have the ability to be accessed in a shared manner by multiple threads of execution and said privatized global storage objects being stored in a computer storage medium have the ability to be accessed in a private manner by each of said threads, providing on-demand copy-in from the global object to one or more parallel private regions if said privatization specification specifies sharing or does not specify that privatization is to occur in one particular region [Col. 4, Lines 61 to Col. 5, Line 9; Col. 7, Lines 8-18; Col. 8, Lines 51-60; Col. 9, Lines 5-57]. Therefore, it would have been obvious to combine the system sorting data on a parallel processing computer system, as taught by Potter, with the provided on-demand copy-in from the global object to the private copy, as taught by Poulsen, because the result would have preserved the relationships that hold between the members of compound global storage objects while providing privatization of global storage objects, as taught by Poulsen [Col. 5, Lines 49-55].

With respect to claims 5-7, 13, 19-23, 32-36, and 44-46, Poulsen teaches the invention to include an explicit privatization system and method providing exclusive write access to the privatized objects and using pointer indexing to indicate exclusive

member and pointer to indicated common members to be used [Col. 2, Lines 56-65; Col. 5, Lines 7-20; Col. 9, Lines 5-10; Col. 10, Lines 46-60].

With respect to claims 2-6, 8-9, 12, 15-18, 24-25, 29-31, 40-43, and 47-48, Potter teaches the parallel processing computer system wherein each node or each thread executed by each node generates a file containing its local object [Col. 3, Lines 7-11] which must then be combined with objects of the other nodes to form the global data structure generated on a coordinator node, wherein the global data structure stores ordered entries associated with the records stored in each of the local data structures generated by each of the nodes, each entry maintains access to the corresponding node [abstract; Col. 1, Lines 39-50; Col. 3, Lines 36-37, Line 63 to Col. 4, Line 2]; Poulsen additionally teaches the system and method describing being stored in a computer storage medium and having the ability to be accessed in a shared manner by multiple threads of execution and said privatized global storage objects being stored in a computer storage medium and having the ability to be accessed in a private manner by each of said threads [Col. 4, Lines 61 to Col. 5, Line 9; Col. 9, Lines 5-57].

### ***Conclusion***

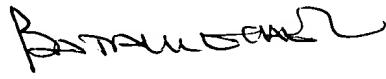
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,026,474 (Carter et al) teaching shared client-side web caching using globally addressable memory.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (703) 305-0134. The examiner can normally be reached on Tue-Fri (7:30A to 6:00P).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (703) 305-3821. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Pierre-Michel Bataille  
Primary Examiner  
Art Unit 2186